

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

DARIUS HEIMER GITTENS,

Plaintiff,

v.

WILLIE J. BONDS, et al.,

Defendants.

Civil Action
No. 19-13450 (RBK)(JS)

**MEMORANDUM OPINION
& ORDER**

Before the Court is Plaintiff's motion seeking: (1) sanctions; (2) entry of default; (3) an extension of time to serve; and (4) a stay of Magistrate Judge Schneider's scheduling orders. (ECF No. 29). Turning first to Plaintiff's request for entry of default, Plaintiff filed a motion for entry of default on August 19, 2020, against all served Defendants, which is currently pending before the Court. (ECF No. 25). On September 9, 2020, however, those Defendants filed their Answer. (ECF No. 26). Accordingly, the Court will deny Plaintiff's motion for entry of default, (ECF No. 25), and his request for entry of default, (ECF No. 29), as moot.

Next, Plaintiff seeks sanctions to hold Defendants in contempt for: (1) failing to answer; and (2) failing to provide him with a copy of their Answer. To the extent that Plaintiff seeks to hold Defendants in contempt for failing to answer, it appears that Plaintiff believes that Defendants violated the Federal Rules of Civil Procedure or a court order by failing, at the time, to respond to his Complaint. No such order exists, however, and Defendants have no obligation to respond to his Complaint.

Plaintiff refers to the Court's docket entries setting Defendants' time to answer, but such entries do not order or otherwise mandate an answer. If duly served defendants wish to risk an entry of default and then default judgment for failure to respond to a complaint, that is their prerogative.

To the extent Plaintiff seeks to hold the served Defendants in contempt for failing to serve him with a copy of their Answer, the Court will deny that motion. As discussed above, Defendants have not violated any Order of this Court. Additionally, the Court notes that defense counsel submitted a certification of service, indicating that he sent a copy of the answer to Plaintiff. (ECF No. 26, at 19–20). In an abundance of caution, however, the Court will order Defendants to send Plaintiff a copy of their Answer, by certified mail, return receipt requested, and to file proof of mailing with the Court.

As to the remainder of Plaintiff’s motion, such as his request for an extension of time to serve, request to stay scheduling orders, and Plaintiff’s failure to receive a copy of those orders, the Court will defer to Magistrate Judge Schneider.

Accordingly, it is on this 5th day of October 2020,

ORDERED that Plaintiff’s motion for sanctions, (ECF No. 29), is DENIED; and it is further

ORDERED that Plaintiff’s motion for clerk’s entry of default, (ECF No. 25), and request for entry of default, (ECF No. 29), are DENIED AS MOOT; and it is further

ORDERED that Defendants shall send Plaintiff a copy of their Answer, by certified mail, return receipt requested, and file proof of mailing with the Court, within ten (10) days of the date of this Order; and it is further

ORDERED that the Clerk of the Court shall send a copy of this Memorandum Opinion and Order to Plaintiff by regular U.S. mail.

s/Robert B. Kugler
ROBERT B. KUGLER
United States District Judge